

**THE COUNTY BULLETIN
and Uniform Compliance Guidelines
ISSUED BY THE STATE BOARD OF ACCOUNTS**

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April 1994

REMINDER OF ORDER OF BUSINESS

April

1 County Board of Review begins not later than the first day of month in years in which a periodical reassessment of real estate is begun or completed.

9 Good Friday - Legal Holiday (IC 1-1-9-1)

15 Member of Tax Adjustment Board to be appointed before this date to serve one year in counties that have not abolished such board.

Last day to make pension report and payment for first quarter by counties participating in Public Employees' Retirement Fund.

19 & 20 State Board of Accounts called meeting for County Recorders, at the Westin Hotel, Indianapolis.

20 Last day to report and make payment of balance of State and County Income Tax withheld in March to Indiana Department of Revenue.

Last day to file quarterly unemployment compensation reports with Indiana Employment Security Division.

30 Prepare inventory of Loans to Common, Congressional, Permanent Endowment and Cemetery Trust Funds.

Last day to file quarterly report of Federal withholding tax with Director of Internal Revenue.

May

1 Last day for Township Trustee to report to County Auditor all unpaid claims, because of lack of funds, for losses caused by dogs.

Prepare report of school funds to Auditor of State and make payment of principal and interest due to Treasurer of State on the Common and Permanent Endowment Funds, and pay the Treasurer of State all fines and forfeitures on hand April 30, 1993, as shown in this report. (IC 21-1-3-7)

Prepare report of school funds (Form No. 6) and present the report to the Board of Commissioners for approval. After approval, mail one copy to State Department of Education, 227 State House, and one copy to Auditor of State, 240 State House.

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REMINDER OF ORDER OF BUSINESS
(Continued)

May - Continued

- 3 Board of Review meets in counties with more than 350,000 population, other than years in which there is a periodical reassessment of real estate. (IC 6-1.1-28-5)

- 10 Last day to make report to Auditor of State of all unpaid claims against the dog fund not covered by distributions to townships in March 1993. (IC 15-5-9-11)

 Last day for filing applications for tax deductions to obtain deduction on 1993 payable 1994 taxes. (IC 6-1.1-12-2)

- 15 Last regular day for filing applications for tax exemption by Churches, Educational and Charitable organizations. (IC 6-1.1- 11-3)

 Period of normal filing of personal property schedules ends. (IC 6-1.1-1-7)

- 20 Last day to report and make payment of State and County Income Tax withheld in April to Indiana Department of Revenue. (IC 6-3-4-8.1)

- 24 Give notice of meeting of County Board of Review in counties with population of 350,000 or less. In years in which a periodical reassessment of real estate is begun or completed, the notice must be given earlier - see April calendar.

- 25,26,
27 State called Auditor's meeting - Indianapolis

- 30 Memorial Day - Legal Holiday (IC 1-1-9-1)

June

- 1 On or before this date certify to Auditor of State and state agencies the names of state employees owing delinquent taxes. (IC 6-1.1-22-16)

 County Auditor to prepare a list of persons owing delinquent taxes and believed to have money due from Auditor of State, State Highway Commission or any state institution or state school and furnish the list to those agencies on or before June 1.

- 7 Convening date of County Board of Review in counties having a population of 350,000 or less other than years in which a periodical reassessment of real property is begun or completed.

- 15 County Auditor to give notice to tax exempt organizations which failed to file an application for exemption of property tax for which an exemption was effective for the previous year on or before June 15.

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REMINDER OF ORDER OF BUSINESS
(Continued)

June - Continued

- 20 Last day to report and make payment of State and County Income tax withheld in May to Indiana Department of Revenue.

On or before this date complete settlement and distribution of taxes collected by the County Treasurer since the last settlement. Prepare settlement sheet to be submitted to Auditor of State for approval and make distribution of funds due local governmental units and the Treasurer of State by June 30. (IC 6-1.1-27-3)

- 30 County Treasurer to certify list of real property eligible for tax sale to County Auditor on or before July 1.

MILITARY FINES

Fines imposed pursuant to the Indiana Military Code IC 10-2 are payable into the county treasury for transmittal to the Treasurer of State. IC 10-2-5-3 provides that fines may be collected by payment to the Treasurer of State. IC 10-2-5-3 provides that fines may be collected by payment to the treasurer of the county, who shall then transmit the amounts received to the Treasurer of the State of Indiana.

Do not comingle military fines with fines and forfeitures paid into the county treasury by courts and clerks of courts.

No special report form is required to accompany the payment to the Treasurer of State. It will be sufficient to indicate "Military Fines" on the face of the county warrant.

Since receipt of military fines is not frequent, we suggest they be transmitted to the Treasurer of State immediately after they are received.

PROSECUTING ATTORNEY - EXPENSE FOR ATTENDING GENERAL CONFERENCES

Reimbursement for expenses for the prosecuting attorney for attending conferences called by the Attorney General is governed by IC 33-14-7-1 which states in part: "The expenses necessarily incurred by any such prosecuting attorney in attending any such conference, including the actual expense of transportation to and from the place where such conference is held, together with his meals and lodging, shall be paid from the general fund of the county upon the presentation of a duly itemized and verified claim, filed as required by law, and by warrant issued by the county auditor."

Mileage reimbursement would be at the then current rate. (Presently twenty-five cents (\$.25) per mile). If two (2) or more prosecuting attorneys ride together, mileage should only be paid to the person furnishing the automobile. Reimbursement for hotel or motel room would be actual single occupancy room rate. If a spouse or some other person who is not a prosecuting attorney accompanies the prosecuting attorney a statement showing the single occupancy room rate should accompany the bill for lodging. If two (2) or more prosecuting attorneys share the same room, each person

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**PROSECUTING ATTORNEY - EXPENSE FOR ATTENDING GENERAL CONFERENCES
(CONTINUED)**

would only be entitled to reimbursement for his(her) proportionate share of the room charges. Charges for telephone, (other than actual business) HBO movies, alcoholic beverages, etc. are the personal expense of the prosecuting attorney and should not be included in the reimbursement by the county.

Reimbursement for meals would be actual expenses unless a flat rate allowance for meals has previously been established as a part of the county personnel policy.

IC 33-14-7-1 makes no mention of this expense being paid without an appropriation. Therefore it would appear that an appropriation under "Other Services and Charges" should be obtained prior to payment being made.

COMPENSATION OF SPECIAL PROSECUTING ATTORNEYS

IC 33-14-1-6 deals with the appointment and compensation of special prosecuting attorneys. In regard to compensation this statute states:

"If the special prosecutor is not regularly employed as a full-time prosecuting attorney or a full-time deputy prosecuting attorney, the compensation for his services:

- (1) shall be paid to him from the unappropriated funds of the appointing county; and
- (2) shall not exceed a per diem equal to the regular salary of the appointing circuit, . . .

If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for this special prosecutor's services:

- (1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which he regularly serves; and
- (2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, . . ."

IC 33-14-7-5 states that the salary of a full-time prosecuting attorney shall be the same as the salary paid to the circuit court judge of the same judicial circuit.

IC 33-13-12-7 states that the salary of full-time circuit court judges shall be as follows:

	Salary Effective <u>Jan. 1, 1991</u>
Classes 1 and 2	\$ 51,265
Classes 3 through 6	54,575
Classes 7 through 9	56,780

Based on fifty-two (52) five (5) day weeks, (total two hundred sixty (260) days) the maximum daily per diem rate for a special prosecuting

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COMPENSATION OF SPECIAL PROSECUTING ATTORNEYS (CONTINUED)

attorney who is not regularly employed as a full-time prosecuting attorney or a full-time deputy prosecuting attorney is shown in the following schedule:

	Per Diem Effective <u>Jan. 1, 1991</u>
Classes 1 and 2	\$ 197.17
Classes 3 through 6	209.90
Classes 7 through 9	218.38

The above rates would also be applicable in the case of reimbursement to another if the special prosecutor is employed as a full-time prosecuting attorney or deputy prosecuting attorney.

IC 33-14-1-6 also includes provision for reimbursement for travel and reasonable lodging expenses for special prosecuting attorneys.

MILEAGE RATE FOR COUNTY OFFICIALS AND EMPLOYEES

"County officers are entitled to a sum for mileage in the performance of their official duties equal to that sum per mile paid to state officers and employees in an amount determined by county council." (IC 36-2-7-3)

Any changes in the sum per mile that the state established by July 1 of any year shall be included in the compensation that the county council fixes in that same year to take effect January 1 of the next year. However, the fiscal body, by ordinance, provide for the change in the sum per mile to take effect before January 1 of the next year. (IC 36-2-7-2)

The mileage rate to be allowed all county officers and employees for use of private vehicles while on official business for the county is \$.25 per mile. State employees currently are receiving \$.25 per mile.

**ALLOCATION OF PENALTIES COLLECTED FOR FAILURE TO TIMELY REGISTER
MOTOR VEHICLES**

IC 9-18-2-1 states: "Within sixty (60) days of establishing residence or domicile within Indiana, a person who establishes a residence or domicile with intent to make that residence or domicile his primary residence must register and title all motor vehicles owned by that person:

- (1) that are subject to the motor vehicle excise tax under IC 6-6-5; and
- (2) that will be operated in Indiana. . . ."

IC 9-18-2-40 states: "A person who violates this section commits a Class C infraction. In addition to any judgment assessed under IC 34-4-32, a person who violates this section shall be assessed an additional judgment which shall be in an amount equal to the amount of the excise tax due on

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**ALLOCATION OF PENALTIES COLLECTED FOR FAILURE TO TIMELY REGISTER
MOTOR VEHICLES (CONTINUED)**

the vehicle under IC 6-6-5 if the vehicle had been timely registered, which must be collected by the clerk of the court and distributed under section 21.4 of this chapter."

IC 9-18-2-41 states: The clerk shall transfer any additional judgments collected under subsection (a) of this chapter to the county auditor on a calendar year basis. The auditor shall distribute the funds to the law enforcement agencies, including the state police, responsible for issuing citations to enforce section 1 of this chapter. The percentage of the funds distributed to an agency equals the percentage of the total number of citations issued by the agency for the purpose of enforcing section 1 of this chapter during the applicable period.

Funds distributed under this section shall be used for any law enforcement purpose including contributions to the pension fund of the law enforcement agency.

To facilitate the handling and allocation of these fees under IC 9-18-2-41, the clerk should use General Form No. 367 (1984) entitled "Clerk's Report to Auditor of Additional Judgments for Excise Tax" (see copy of this form on page 13). In using this form the following procedures should be observed:

1. The clerk of the court which collects these penalties must include a memorandum with the remittance which shows the number of citations filed in the court by each law enforcement agency for failure to timely register a motor vehicle. Such memorandum could be as follows:

<u>Law Enforcement Agency</u>	<u>Number of Citations</u>
_____ County Sheriff	6
Urban City Police	2
Best Town Marshal	<u>2</u>
Total	<u>10</u>

2. The amount received from the clerk would be receipted to a fund called "Judgments Due Law Enforcement Agencies."
3. The amount receipted to the Judgments Due Law Enforcement Agencies Fund would then be multiplied by the percentage of the total citations which were filed by each law enforcement agency during the applicable period to determine the amount due each law enforcement agency.

Using the number of citations shown in Item 1 above an example of a worksheet to determine the allocation of funds is as follows:

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**ALLOCATION OF PENALTIES COLLECTED FOR FAILURE TO TIMELY REGISTER
MOTOR VEHICLES (CONTINUED)**

Amount Received From Court \$450.00

<u>Law Enforcement Agency</u>	<u>Number of Citations</u>	<u>Percentage of Total</u>	<u>Amount Due Agency</u>
_____ County Sheriff	6	60%	\$ 270.00
Urban City Police	2	20%	90.00
Best Town Marshal	<u>2</u>	<u>20%</u>	<u>90.00</u>
Totals	<u>10</u>	<u>100%</u>	<u>\$ 450.00</u>

4. After the amount due each law enforcement agency is determined a warrant should be issued to the disbursing officer of the particular governmental unit for the amount due. The warrant should be accompanied by a brief explanation showing the purpose of the distribution.
5. The amount due the county on account of citations filed by the sheriff's department should be receipted by quietus to a fund called "Motor Vehicle Registration Penalties." This fund can be expended for any law enforcement purpose. However, disbursement should be by county warrant and only after a duly itemized claim has been approved by the board of County Commissioners.
6. Any amount due on account of citations issued by the state police would be sent to the Auditor of State.

COUNTY DRUG FREE COMMUNITY FUND

In 1990, A County Drug Free Community Fund was established in each county to promote comprehensive local alcohol and drug abuse prevention initiatives by supplementing local funding for treatment, education and criminal justice efforts. The fund consists of the following fees collected by the Clerk of the Circuit Court:

1. Seventy-five percent (75%) of the Drug Abuse, Prosecution, interdiction, and correction fee. (IC 33-19-5-1(b))(5)
2. Seventy-five percent (75%) of the alcohol and Drug Counter-Measures fees. [IC 33-19-5-1(b)(7), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5)]

These fees will be remitted monthly by the Clerk of the Circuit Court to the County Auditor on their Monthly Report of Collections and receipted to the "County Drug Free Community Fund."

The remaining twenty-five percent (25%) of these fees are to be receipted by the Clerk of the Circuit Court to the "State User Fee Fund" and semiannually distributed to the Auditor of State.

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COUNTY DRUG FREE COMMUNITY FUND (CONTINUED)

The County Auditor shall administer the County Drug Free Community Fund which requires local appropriation. The fund is non-reverting and will be classified as a special revenue fund.

County Council shall annually appropriate from the fund amounts allocated by the Board of County Commissioners for the use of persons, organizations, agencies and political subdivisions that provide services and activities contained in a comprehensive drug free communities plan approved by the Commission for a Drug Free Indiana, established by IC 5-2-6-16.

The Board of County Commissioners shall allocate the money as follows:

1. At least twenty-five percent (25%) of the money is to go to person, agencies, organizations, and political subdivisions providing treatment in the County, and
2. At least twenty-five percent (25%) of the money is to go to persons, agencies, organizations, and political subdivisions providing treatment in the County, and
3. At least twenty-five percent (25%) to persons, agencies, organizations, and political subdivisions providing criminal justice services in the County., and
4. The remaining money in the fund may be allocated at the discretion of the county fiscal body to persons, organizations, agencies, and political subdivisions providing services under subdivisions (1) through (3) in the county.

The fund may not be used to replace other funding for alcohol and drug abuse services provided to the county.

It will be up to the Board of County Commissioners to decide what persons, organizations, agencies, and political subdivisions get this money.

Possible recipients would include:

1. Prevention and Education Services
 - A. Police Agencies
 - B. DARE, MADD, etc.
2. Treatment centers
 - A. Alcohol and drug agencies
 - B. KOALA centers
 - C. and any other type of drug treatment center
3. Criminal Justice Services
 - A. Prosecuting Attorneys
 - B. Courts
 - C. Community Corrections Programs
 - D. Probation Departments
 - E. Police Agencies

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COUNTY DRUG FREE COMMUNITY FUND (CONTINUED)

One agency could qualify to receive appropriations under 2 of the 3 categories.

As always the recipients of these funds should enter into a contractual agreement with the county commissioners stating:

1. they will use the funds to provide services and activities contained in the plan;
2. the recipient will file periodic financial reports of the services and activities provided; and
3. will be subject to an audit by the State Board of Accounts.

IRS ARTICLE ON COUNTY SHERIFF PRISONER MEAL ALLOWANCE

Attached to this Bulletin is an IRS article regarding the reporting of County Sheriff Prisoner Meal Allowance. Please note this article has been reviewed by their Public Affairs Office and their District council. Please refer any county officials questions on this article to the county attorney.

FEES TO BE CHARGED IN CHANGE OF VENUE OR TRANSFER OF CAUSE

Black's Law Dictionary defines:

Transfer of a cause as, "The removal of a cause from the jurisdiction of one court or judge to another by lawful authority."

"Venue ... the neighborhood, place or county in which an injury is declared to have been done, or fact declared to have happened. Venue deals with locality of suit, that is, with question of which court, or courts, of those that possess adequate personal and subject matter jurisdiction may hear the specific suit in question. Venue does not refer to jurisdiction at all. Jurisdiction of the court means the inherent power to decide a case, whereas venue designates the particular county or city in which a court with jurisdiction may hear and determine the case."

"Change of Venue the removal of a suit begun in one county or district to another county or district for trial, though the term is also sometimes applied to the removal of a suit (cause/case) from one court to another court of the same county or district. In civil cases a change may be permitted in the interests of justice or for the convenience of the parties."

Question 1: As far [as] charges go is there a difference between a Change of Venue and a Transfer?

Answer 1: There could be a difference between a charge for change of venue and a transfer. We are quoting the statutes we consider applicable. However, these are the general statutes and there may be specific statutes enacted specifically for your County.

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**FEES TO BE CHARGED IN CHANGE OF VENUE OR TRANSFER OF A CAUSE
(CONTINUED)**

As such we recommend when in doubt you consult with the appropriate judges. With your questions you ask for specific charges but you did not give us the case class code (e.g. civil, criminal, etc.). Without specific case class codes we are unable to give you the appropriate charge in specific dollars, therefore we are giving the general statute citations.

- A. IC 33-19-4-3(b) states "In an action where there has been or will be a **change of venue or transfer from one county to another, the clerk of the court from which the action is transferred** shall collect from the party seeking change of venue a fee equal to that required by IC 33-19-5-4 [civil costs], IC 33-19-5-5 [small claims], or IC 33-19-5-6 [probate]. The clerk of the transferring court shall forward the fee collected under this section to the clerk of the court to which the action is transferred."
- B. Trial Rule 75(B) entitled **Claim or proceeding filed in improper court** states "Whenever a claim or proceeding is filed which should properly have been filed in another court of this state, and proper objection is made, **the court in which such action or proceeding is filed shall not dismiss the same, but shall order said cause transferred to the court in which it should have been filed. The person filing such claim or proceeding shall pay such costs as are chargeable upon a change of venue** and the papers and records shall be certified to the court of transfer in like manner as upon change of venue. Such action shall be deemed commenced as of the date of filing the claim in the original court."
- C. **Transfer of cause from one court to another within the same county and requested by the judge.** There are several statutes which allow the judge of one court to transfer any action, cause, or proceedings filed and docketed in his court to another court with the same jurisdiction. This requires the consent of the other judge and is done by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of **as if originally filed with the other court**, provided the same could have been originally filed and docketed in the other court.
In these instances where the judge transfers the case no charge for change of venue or transfer of cause is necessary.
For specific court citations see: I.C. 34-2-11-1, I.C. 34-2-11-2, 34-2-11-3, and I.C. 33-10.5-3-5.

Question 2: If a small claim in county court is transferred or given a change of venue to a superior or circuit court within the same county, what is the charge?

Answer 2: You do not state whether Vigo circuit or superior courts have small claims jurisdiction. See answers 1B and 1C. Specifically I.C. 34-2-11-3 and I.C. 33-10.5-3-5.

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**FEES TO BE CHARGED IN CHANGE OF VENUE OR TRANSFER OF A CAUSE
(CONTINUED)**

Question 3: If a complaint in county court is transferred or given a change of venue to a superior or circuit court within the same county, what is the charge?

Answer 3: See Answer 2.

Question 4: If a superior or circuit case is given a transfer or change of venue to a complaint in county court within the same county, what is the charge?

Answer 4: See answer 1B and 1C. Specifically I.C. 33-10.5-3-5 and I.C. 34-2-11-3.

Question 5: If a superior or circuit case is given a transfer or change of venue to a small claim in county court within the same county, what is the charge?

Answer 5: See answer 1B and 1C. Specifically I.C. 33-10.5-3-5 and I.C. 34-2-11-3.

Question 6: If a small claim in county court is transferred or given a change of venue to a superior or circuit court from one county to another county, what is the charge?

Answer 6: See answer 1A.

ASSESSMENT REGISTRATION NOTICES

IC 6-1.1-5-15 states before an owner of real property demolishes, structurally, modifies, or improves it at a cost of more than five hundred dollars (\$500) for materials and/or labor, the owner or his agent shall:

1. file an assessment registration notice on a form prescribed by the State Board of Tax Commissioners, and charge a five dollar (\$5) fee.
- or 2. obtain a permit from an agency, official of the state, or a political subdivision, then the owner is not required to file an assessment registration notice.

A township or county assessor shall immediately notify the county treasurer if the assessor discovers property that has been improved or structurally modified at a cost of more than five hundred dollars (\$500) and the owner of the property has failed to obtain the required building permit or file an assessment registration notice.

Any person who fails to obtain one of these is subject to a civil penalty of one hundred dollars (\$100). The county treasurer shall include the penalty on the person's property tax statement and collect it in the same manner as delinquent personal property taxes under IC 6-1.1-23. However, if a person files a late registration notice, the person shall pay

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ASSESSMENT REGISTRATION NOTICES (CONTINUED)

the fee, if any, and the penalty to the county assessor at the time the person files the late registration notice. Both the five dollar (\$5) fee and the one hundred dollar (\$100) penalty would be receipted to the County Property Reassessment Fund.

SPECIAL DEATH BENEFIT FEES - PUBLIC LAW 156-1994

PUBLIC LAW 156 - Senate Enrolled Act 87 - Effective 3-11-84 the General Assembly.

Death benefit funding. Reestablishes a five dollar (\$5) fee that expired December 31, 1993, for bail bonds executed and bail deposits. Provides that the reestablished fee applies only to bail bonds executed and bail deposits made after the effective date of the act. Continues the fee until December 31, 1998. Requires the fee to be paid into the special death benefit fund.

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PRESCRIBED BY STATE BOARD OF ACCOUNTS

GENERAL FORM NO. 367 (1984)

CLERK'S REPORT TO AUDITOR
OF ADDITIONAL JUDGMENTS FOR EXCISE TAX

TO THE AUDITOR OF _____ COUNTY, INDIANA

COLLECTIONS FOR MONTH _____, 19__

LAW ENFORCEMENT AGENCY	NO. OF CITATIONS ISSUED	AMOUNT COLLECTED
STATE POLICE		
COUNTY SHERIFF		
TOTALS		\$

I SWEAR THAT THE ABOVE IS A TRUE AND CORRECT STATEMENT OF ALL COSTS AND FEES BELONGING TO THE ABOVE AGENCIES AND DEPARTMENTS COLLECTED BY ME FOR THE PERIOD SHOWN.

STATE OF INDIANA _____ COUNTY, SS

IC 9-18-2-41 PROVIDES THAT THE CLERK OF THE COURT SHALL ON A CALENDAR YEAR BASIS TRANSFER ADDITIONAL JUDGMENTS COLLECTED UNDER IC 9-18-1-41 TO THE COUNTY AUDITOR WHO SHALL DISTRIBUTE THE FUNDS TO THE LAW ENFORCEMENT AGENCIES RESPONSIBLE FOR ISSUING CITATIONS. THE PERCENTAGE OF FUNDS DISTRIBUTED TO A LAW ENFORCEMENT AGENCY EQUALS THE TOTAL NUMBER OF CITATIONS ISSUED BY THE LAW ENFORCEMENT AGENCY, THE STATE BOARD OF ACCOUNTS RECOMMENDS MONTHLY FILING OF THIS FORM TO ELIMINATE THE NECESSITY OF CARRYING THESE ITEMS IN TRUST.

_____ COURT

CLERK OF THE COURT

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AMOUNTS AUTHORIZED TO BE RECEIVED BY SHERIFFS FOR BOARD OF PRISONERS

By authority of IC 36-8-10-7, I, Donald L. Euratte, C.P.A., State Examiner of the State Board of Accounts, do hereby fix the exact amount per meal which the sheriff of each county in the State of Indiana, having a population of less than 250,000 according to the last preceding United States census, shall be entitled to receive for feeding prisoners legally in his charge, including Federal prisoners, for a period of one year, beginning April 15, 1994. Amounts received by the sheriff from the Federal government for board and care of Federal prisoners shall be paid into the County General Fund.

In determining and fixing the amount per meal, the use of wholesome food in quantities and varieties necessary for the preservation of the health of the prisoners is contemplated. All expenses related to preparing and serving meals, except for the costs of food, shall be borne by the county.

The amounts fixed are for meals actually served at institutions for the correction of offenders.